United Nations CCPR/C/BGR/CO/4

International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the fourth periodic report of Bulgaria*

1. The Committee considered the fourth periodic report of Bulgaria (CCPR/C/BGR/4) at its 3542nd and 3543rd meetings (see CCPR/C/SR.3542 and 3543), held on 16 and 17 October 2018. At its 3559th meeting, held on 29 October 2018, it adopted the present concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its fourth periodic report in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/BGR/QPR/4). It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional measures taken by the State party:

(a) The adoption in 2012 of the Act on Amendments to the Ministry of the Interior Act, which introduced the "absolute necessity" standard for the use of weapons, physical force or auxiliary devices by law enforcement officials;

(b) The adoption in 2015 of the Law Amending and Supplementing the Constitution, which created separate chambers for judges and for prosecutors within the Supreme Judicial Council;

(c) The adoption in 2017 of the Law on Amendments to the Execution of Punishments and Pretrial Detention Act, the Criminal Code and the Criminal Procedure Code;

(d) The amendments to the Law on Foreigners of 2016 and 2017, establishing a statelessness determination procedure, prohibiting the short-term detention of unaccompanied children and introducing new alternatives to detention for irregular migrants;

(e) The establishment in 2013 of the National Coordination Mechanism on Human Rights;

* Adopted by the Committee at its 124th session (8 October–2 November 2018).

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(f) The establishment in 2015 of a legal mechanism to grant compensation in order to implement the Views of the treaty bodies.

4. The Committee also welcomes the ratification of the Convention on the Rights of Persons with Disabilities, on 22 March 2012.

C. Principal matters of concern and recommendations

Implementation of the Covenant and its Optional Protocol

5. While noting the State party's cooperation with the Committee's follow-up process for its previous concluding observations, the Committee regrets that some of those recommendations have not yet been implemented. It also notes that the Covenant has only been invoked occasionally by national courts (art. 2).

6. **The State party should ensure the full implementation of the concluding observations and Views adopted by the Committee through the National Coordination Mechanism on Human Rights and guarantee the right of victims to an effective remedy when there has been a violation of the Covenant, in accordance with article 2 (2) and (3). It should intensify its efforts to inform and educate the public, lawyers, prosecutors and judges about the Covenant and its Optional Protocol.**

National human rights institutions

7. While noting with appreciation the amendments to the Ombudsman Act in 2018, the Committee regrets the lack of clarification regarding the steps taken to bring the Commission for Protection against Discrimination into compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It is also concerned that the State party has not yet taken the necessary measures for both the Ombudsman and the Commission to be accredited with "A" status by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions (art. 2).

8. **The State party should take all the measures necessary to make sure that its national institutions for human rights are in accordance with the Paris Principles, including by ensuring their independent, transparent and participatory selection processes and that they have adequate resources to function effectively.**

Hate speech and hate crimes

9. The Committee is concerned about reports of increased acts of hate speech and hate crimes, particularly against the Roma community, members of religious minorities, lesbian, gay, bisexual, transgender and intersex persons, migrants and asylum seekers, including racist, xenophobic and intolerant speech on television, the media and on the Internet, from persons at the highest levels of government and in election campaigns. While noting the legislative reforms aimed at expanding the scope of hate crimes, the Committee remains concerned that sexual orientation and gender identity are not recognized as hate motives or grounds of discrimination in either the Criminal Code or the Radio and Television Act. It is also concerned at the lack of data regarding criminal hate speech and hate crimes and that these crimes are not adequately investigated and prosecuted, since the hate motive is often not taken into account, and the number of convictions is extremely low (arts. 2–3, 18–20 and 26–27).

10. **The State party should:**

(a) **Amend the Criminal Code and the Radio and Television Act to explicitly include sexual orientation and gender identity as hate motives and grounds of discrimination, respectively;**

(b) **Ensure that any advocacy of ethnic or racial hatred that constitutes incitement to discrimination, hostility or violence is prohibited in law and in practice, and that persons responsible for such behaviour towards minority groups are held accountable, including State officials;**

(c) Effectively enforce criminal provisions against hate crimes and hate speech by ensuring that such crimes are reported, investigated, prosecuted and punished with appropriate sanctions, and that victims receive full reparation;

(d) Strengthen the investigative capacity of law enforcement officials for hate crimes and criminal hate speech, including on the Internet and strengthen the mandate and capacity of the Council for Electronic Media to prevent and sanction hate speech in the media.

Discrimination on the grounds of sexual orientation and gender identity

11. The Committee is concerned that the Protection against Discrimination Act does not include gender identity as a ground of discrimination. It also notes with concern that same-sex couples cannot enter into any form of legally recognized union or adopt children, and that those married overseas and their children are denied access to civil registration. It is further concerned at the obstacles to changing legal recognition of gender, including reports that courts condition such changes on undergoing hormonal therapy. The Committee is concerned at the persistence of stereotypical attitudes, prejudice, hostility and discrimination against lesbian, gay, bisexual, transgender and intersex persons, including as reflected in the Constitutional Court's decision No. 13/2018 of 27 July 2018 (arts. 2–3, 16–17, 19–20, 23 and 26).

12. **The State party should:**

(a) Eliminate discrimination against persons on the basis of their sexual orientation or gender identity in law and in practice in all spheres, including employment, marriage and family arrangements, and ensure access to effective remedies for any act of discrimination;

(b) Amend the Protection against Discrimination Act to explicitly include gender identity as a ground of discrimination and fully recognize the equality of same-sex couples;

(c) Establish a simple and accessible administrative procedure for change of civil status with respect to gender identity that is in accordance with the Covenant;

(d) Intensify efforts to combat negative stereotypes and prejudice against lesbian, gay, bisexual, transgender and intersex persons and to promote tolerance through training and awareness-raising campaigns for government officials and the general public, including through public schools.

Discrimination against Roma

13. While noting the measures taken to improve the situation of the Roma community, the Committee remains concerned (CCPR/C/BGR/CO/3, paras. 7, 15 and 24) that members of the Roma community continue to suffer marginalization and discrimination, especially in the areas of housing, education, health care and employment. It is particularly concerned about reports that Roma children increasingly attended de facto segregated schools and about numerous forced evictions executed without prior notice that rendered families homeless, as there was no satisfactory replacement housing available to them. In this respect, the Committee regrets the failure to amend the State Property Act, the Municipal Property Act and the Spatial Development Act to introduce the principle of proportionality in the demolition of illegal construction. It also regrets the lack of statistics on the number of complaints of discrimination against the Roma community, in the light of reports about the lack of accountability for such acts. The Committee remains concerned by the continuing practice of early marriage, particularly in the Roma community, and its close link to early school dropout rates (arts. 2, 23–24 and 26–27).

14. **The State party should:**

(a) Intensify its efforts to address stereotypes, prejudice, intolerance and widespread discrimination against the Roma population, ensuring that complaints are investigated, perpetrators are held accountable and victims have access to full reparation;

(b) **Monitor and effectively eradicate the educational segregation of Roma children and enhance the measures to prevent students from dropping out of school;**

(c) **Amend its legislation to introduce the principle of proportionality in the demolition of illegal construction, avoid forced evictions and, when they cannot be avoided, ensure that they follow due process and that the affected individuals are provided with adequate alternative housing and access to legal remedies, including reparation;**

(d) **Ensure the effective implementation of the National Roma Integration Strategy 2012–2020, including by allocating sufficient funding;**

(e) **Step up its efforts to prevent child marriage, including through community awareness-raising campaigns and the involvement of families, community and children themselves in those campaigns.**

Discrimination against people with HIV/AIDS

15. The Committee is concerned about reports of stigmatization of and discrimination against persons with HIV/AIDS, including from doctors who have refused to provide treatment due to fear of contracting the disease (arts. 2, 6 and 26).

16. **The State party should strengthen its efforts to combat stigmatization, prejudice and discrimination against persons with HIV/AIDS, and ensure full and equal access to medical treatment and preventive care for persons with HIV/AIDS.**

Discrimination against persons with disabilities

17. The Committee is concerned about reports of high unemployment rates and labour discrimination against persons with disabilities, a failure to recognize reasonable accommodation as a form of discrimination and the segregation of children with disabilities in schools. It notes with concern that persons with psychosocial or intellectual disabilities who are deprived of their legal capacity are stripped automatically of their right to marry and vote, cannot directly request the restoration of their legal capacity before a court and continue to be placed under the guardianship of the institution in which they are confined. While noting that the 2016 draft law on physical persons and support measures foresees the replacement of the system of guardianship by supported decision-making, the Committee remains concerned about the delay in enacting the law. While noting the State party's significant efforts towards deinstitutionalization, the Committee is concerned at the prevalence of institutional services over community support, at reports of ill-treatment of persons with psychosocial or intellectual disabilities in psychiatric hospitals and social care homes, at the excessive use of mechanical and chemical restraints, and at incidences of death in institutions through traumatic injuries that have not been investigated (arts. 2, 6–7, 9–10, 14, 16, 23 and 25–26).

18. **The State party should:**

(a) **Ensure that persons with disabilities are not discriminated against, in law or in practice, particularly in their access to inclusive education, reasonable accommodation, employment and marriage, or in their right to vote and stand for election on grounds that are disproportionate or have no reasonable and objective relation to their ability to vote or stand for election, taking account of article 25 of the Covenant;**

(b) **Ensure that any restriction on legal capacity is no greater than necessary, only imposed pursuant to appropriate legal and procedural safeguards and free and effective legal representation, and that the individuals affected have prompt access to effective judicial review of the decisions regarding their legal capacity;**

(c) **Speed up deinstitutionalization of persons with disabilities, favouring genuine community-based settings, and ensure that any decision to confine or restrain persons with intellectual or psychosocial disabilities is strictly necessary and proportionate for the purpose of protecting the individual in question from serious harm or from injuring others, and is applied only as a last resort and for the shortest**

period of time, and that such individuals have access to effective judicial review of decisions affecting them, consistent with articles 9 and 14 of the Covenant;

(d) **Take measures to prevent all forms of ill-treatment in psychiatric institutions and social care homes against persons with disabilities, including through independent and efficient monitoring and access to complaints mechanisms, and ensure that any abuse is effectively investigated and sanctioned, with criminal liability in appropriate cases.**

Equality between men and women

19. While noting the legislative and policy measures taken for promoting gender equality, the Committee remains concerned about the persistent gender pay gap and the disproportional distribution of responsibilities between men and women in caring for dependent family members. The Committee is concerned that women are still underrepresented in decision-making positions in the public and private sector, particularly Roma women (arts. 2–3 and 25–26).

20. **The State party should:**

(a) **Continue its efforts to close the gender pay gap and counter stereotypes regarding the roles and responsibilities of women in the family and society at large through public awareness, education and training programmes;**

(b) **Increase the representation of women in decision-making positions in the public and private sectors, including, when necessary, by taking appropriate temporary special measures to give effect to the provisions of the Covenant.**

Violence against women, including domestic violence

21. While noting the pending legislative amendments to criminalize all forms of domestic violence and the efforts to address the lack of official statistics on cases of domestic violence, the Committee is concerned about reports of the alarming extent and intensity of violence against women in Bulgaria, and the fact that these acts remain greatly underreported. It is also concerned about the failure of courts to issue, in a timely manner, protective measures that are commensurate with the scope of violence, and to impose appropriate criminal sanctions (arts. 2–3, 6–7, 24 and 26).

22. **The State party should:**

(a) **Accelerate the adoption of legislation to enhance the protection of women against violence, including by explicitly criminalizing all forms of violence, including domestic violence and marital rape;**

(b) **Compile statistical data on cases of violence against women, including domestic violence, which should be disaggregated by age and type of offence, and ensure that such cases are reported and thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims have access to effective reparation and means of protection, including through effective enforcement of protection orders;**

(c) **Raise awareness of the general public regarding violence against women, encourage reporting and ensure that police officers, prosecutors and judges receive appropriate training to deal effectively with such cases;**

(d) **Consider taking the necessary steps to enable the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).**

Trafficking in persons

23. The Committee is concerned that Bulgaria remains one of the primary source countries of human trafficking in the European Union. It is also concerned at the obstacles that hinder effective victim identification, victim protection and accountability for perpetrators, and at the poor quality of victim services in publicly run crisis centres (art. 8).

24. **The State party should:**

(a) **Continue to strengthen training of law enforcement officials, judges and prosecutors on trafficking, victim identification, witness protection, accountability and reparation;**

(b) **Fund and provide adequate support services for victims, including adequate medical, social, psychological and legal assistance, and children in shelters to attend school;**

(c) **Ensure that individuals responsible for trafficking in persons are prosecuted and receive punishment commensurate with the crimes committed and that victims receive full reparation.**

Prohibition of torture and cruel, inhuman or degrading treatment

25. The Committee remains concerned (CCPR/C/BGR/CO/3, paras. 8 and 13) that national legislation does not yet explicitly criminalize torture and inhuman and degrading treatment in accordance with international standards. It is also concerned about (a) the continuing allegations of high rates of abuse by law enforcement officials of persons upon arrest and in detention, as well as incidents of police abuse against persons of Roma origin through "punitive raids"; (b) inadequate statistics on ill-treatment and unlawful use of force; and (c) the lack of an independent oversight mechanism to investigate criminal conduct by law enforcement officials. The Committee is concerned at allegations that fundamental legal safeguards are not afforded from the outset of deprivation of liberty, in particular (a) during 24-hour administrative detention before charges are brought, when criminal legal safeguards do not apply; (b) delayed notification of custody to a close relative; (c) delayed access to a lawyer, usually after the detained person has already been interviewed; (d) superficial medical examinations with police officers present; (e) lack of information for accused persons about their rights in a language that they can understand; and (f) interrogation of juveniles without the presence of a lawyer or another trusted person (arts. 7 and 9–10).

26. **The State party should:**

(a) **Amend its legislation to criminalize torture in a manner that fully complies with article 7 of the Covenant and other relevant international standards;**

(b) **Strengthen its efforts to prevent acts of torture and ill-treatment of persons in detention, as well as police violence against the Roma community;**

(c) **Establish an independent oversight mechanism for police abuse, compile statistical data on cases of torture, ill-treatment and excessive use of force by law enforcement officers, and ensure that all such cases are reported, promptly investigated, prosecuted, punished with appropriate sanctions and that victims receive full reparation;**

(d) **Ensure that persons are provided in practice with all legal safeguards from the very outset of deprivation of liberty.**

Prison conditions

27. While welcoming the legislative and administrative measures taken to improve living conditions and prisoners' rights (see above para. 3 (c)), the Committee remains concerned at reports about unsanitary conditions, even in recently refurbished prisons, and about the persistence of inter-prisoner violence. It also regrets the failure of the State party to make parole more widely available to prisoners, particularly those sentenced to life imprisonment (arts. 7, 9–10 and 14).

28. **The State party should strengthen its efforts to (a) improve detention conditions, including through providing appropriate resources to ensure that they are in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules); (b) prevent and address violence in prisons, including by training and incentivizing staff to prevent such violence; and (c) make parole available to prisoners, including all persons sentenced to life imprisonment.**

Treatment of migrants, refugees and asylum seekers

29. While noting the State party's position that there have been no cases of pushbacks along the Bulgarian-Turkish border, the Committee remains concerned about reliable reports from multiple sources indicating that persons who may be in need of international protection have been prevented from entering Bulgarian territory or expelled, at times with force, without an opportunity to apply for asylum or an individualized assessment. It is concerned that prompt identification of persons in need of international protection is not always ensured, at the lack of qualified interpreters, including at the border, and that vulnerable persons are not promptly identified. It also notes with concern reports about the discriminatory treatment of certain nationalities in the asylum process. Despite improvements in reception conditions, the Committee remains concerned about reports that reception centres do not always ensure basic needs, and about security risks at the Voenna Rampa reception centre. It also notes with concern reports of excessive detention of asylum seekers and migrants, including immigration detention orders being issued without individualized assessment or consideration of alternatives to detention; systematic immigration detention for up to 30 days for identification purposes; and prolonged pre-removal detention due, inter alia, to insufficient interpreters and qualified free legal assistance (arts. 2, 6–7, 9, 13 and 26).

30. **The State party should:**

(a) **Fully respect the principle of non-refoulement by ensuring that all persons seeking international protection have the right to apply for asylum, receive accessible information regarding their rights and have access to a prompt and fair status determination procedure based on an individualized assessment, and that no person is expelled or deported to a country in which there are substantial grounds for believing that there is a real risk of irreparable harm, such as that mentioned in articles 6 and 7 of the Covenant;**

(b) **Ensure that force is not applied against migrants and asylum seekers except under strict conditions of necessity and proportionality, that all allegations of the use of force against migrants and asylum seekers are promptly investigated, and that perpetrators are prosecuted and, if found guilty, punished with appropriate sanctions, with reparation to victims;**

(c) **Enhance training for the border police and immigration personnel to ensure full respect for the principle of non-refoulement and the rights of asylum seekers, refugees and migrants under the Covenant and other international standards;**

(d) **Avoid placing asylum seekers in detention except as a last resort and for the shortest period possible, establish a mechanism for the identification of vulnerable applicants, provide effective alternatives to detention and reduce the length and practice of detaining migrants. The State party should ensure that any detention is justified as reasonable, necessary and proportionate in the light of the individual's circumstances, that it is subject to periodic judicial review, and that asylum seekers and migrants have access to qualified legal aid when the interests of justice so require;**

(e) **Further improve conditions for persons seeking international protection by ensuring that reception centres provide basic services, protecting asylum seekers and migrants from attacks and abuse, and by ensuring adequate access to social, psychological, rehabilitation and health-care services and benefits in practice.**

Unaccompanied minors

31. The Committee is concerned that unaccompanied children are accommodated at reception centres without any specialized care, together with adults, and in facilities that do not meet the minimum standards applicable to institutions accommodating children. It is also concerned about the lack of adequate age-assessment procedures and prompt family tracing, and that appointed guardians reportedly lack sufficient qualifications and training. While noting that national law prohibits detention of unaccompanied children, the Committee is concerned that this rule is reportedly circumvented in practice by "attaching"

unaccompanied children to unrelated adults or registering such children as adults (art. 9 and 24).

32. **The State party should ensure that appropriate care arrangements and community-based programmes are in place to ensure the adequate reception of children seeking international protection, in particular unaccompanied children, who should be provided with a qualified guardian and proper legal representation without delay and accommodation separated from adults. It should ensure that the best interests of the child are a primary consideration in all decisions involving migrant and asylum-seeking children. In cases in which there is reasonable doubt about the age of someone, age-assessment procedures should be conducted in a multidisciplinary and child-sensitive manner, taking into consideration the physical and psychological development of the child.**

Counter-terrorism measures and surveillance activities

33. The Committee is concerned by the amendments made to the Criminal Code in 2015, which introduced a definition of "terrorism" that is vague and overly broad. It also notes with concern that the Counter-Terrorism Act of 2016 contains provisions that may infringe upon the rights set forth in the Covenant, namely (a) the possibility for the President, with the approval of the National Assembly, to declare a state of emergency in the aftermath of an act of terrorism and impose blanket bans on public rallies, meetings and demonstrations without any independent oversight; and (b) preventive control measures, such as travel bans, that could be ordered by the President of the National Security Agency or the General Secretary of the Ministry of the Interior against persons suspected of preparing or planning a terrorist act, with no requirement of prior judicial authorization. The Committee also notes the lack of sufficient protection against prosecution of teenage children forcibly recruited to terrorist groups, and the prosecution of peaceful protesters and political opponents. Recalling its previous concluding observations (CCPR/C/BGR/CO/3, para. 22), the Committee remains concerned about the reported cases of illegal wiretapping of politicians, magistrates and journalists for the purpose of intimidation, and the lack of information regarding the remedies provided to them (arts. 14, 17, 21 and 24).

34. **The State party should review its legislation in order to bring it into line with its obligations under the Covenant. It should, in particular:**

(a) **Define the acts that constitute terrorism in a precise and narrow manner, so that they comply with the principles of legal certainty and predictability and cannot be used to prosecute peaceful protesters or political opponents;**

(b) **Ensure that measures derogating from certain rights are only applied in time of war or other public emergency threatening the life of the nation and in accordance with the provisions of article 4 of the Covenant;**

(c) **Ensure that surveillance activities conform with its obligations under article 17 of the Covenant, including the principles of legality, necessity and proportionality, that they are subject to periodic judicial review and that persons affected by these measures have access to effective remedies;**

(d) **Avoid imposing preventive control measures on terrorist suspects and ensure that the right to a fair trial and the existing legal safeguards in the criminal justice system, including those related to children in conflict with the law, are respected at all times.**

National, ethnic and religious minorities

35. Recalling its previous concluding observations (CCPR/C/BGR/CO/3, paras. 9 and 25), the Committee remains concerned about acts of vandalism of places of worship and discrimination against religious and other minority faiths, which have been rarely prosecuted or punished, and the application of local legislation that restricts the exercise of religious freedom, such as the denial of licences to construct places of worship. It also notes with concern the courts' continuing practice to refuse registration to other Orthodox Christian denominations, placing the Bulgarian Orthodox Church in a position of privilege.

The Committee is equally concerned by the new draft legislation targeting extremist religious groups, which contains a very broad definition of "extremist", prohibits preaching in any language except Bulgarian and forbids foreign funding for religious groups. With regard to ethnic minorities, the Committee notes with concern (a) the requirement to conduct election campaigns and display voting materials in Bulgarian only, preventing ethnic minorities not speaking Bulgarian from participating effectively in the electoral process; (b) the refusal to register associations of national minorities with "political objectives", although the amendments to the Commercial Register and the Register of Non-Profit Legal Entities Act in 2018 intend to overcome this practice (arts. 18–19, 22 and 25–27).

36. **The State party should:**

(a) **Ensure that all cases of hate speech, hate crimes and discrimination against religious groups are thoroughly and promptly investigated and sanctioned;**

(b) **Guarantee the effective exercise of freedom of religion and belief and refrain from any action that may restrict it beyond the narrowly construed restrictions permitted under article 18 of the Covenant;**

(c) **Revise draft legislation targeting extremist religious groups with a view to bringing it into conformity with the State party's obligations under the Covenant, in particular, clarifying the vague definition of key terms, removing restrictions on preaching in languages other than Bulgarian and ensuring that any legal restrictions, including regarding access to foreign funding, are not used as a tool to curtail freedom of expression beyond the narrow restrictions permitted in article 19 (3) of the Covenant;**

(d) **Remove the linguistic barriers that limit freedom of expression of non-Bulgarian speaking national minorities during the electoral process;**

(e) **Monitor closely the registration process of associations and refrain from any action that may restrict it beyond the narrowly construed restrictions permitted under article 22 of the Covenant.**

Freedom of expression

37. The Committee is concerned about numerous reports of attacks, threats and harassment of journalists, which go unpunished, and of political pressure on journalists and the media through, inter alia, advertising funding and threats of slander to secure favourable media coverage and suppress criticism, including of corruption. The Committee is concerned at reports of excessive fines against the media reporting on the banking and financial sectors, and of insufficient transparency of media ownership and financing, resulting in strong media concentration. It also notes with concern that defamation remains a criminal offence sanctioned by criminal fines and public censure (arts. 2, 6–7 and 19).

38. **The State party should:**

(a) **Continue training police officers, judges and prosecutors in human rights standards relating to freedom of expression and assembly and the lawful use of force;**

(b) **Protect journalists against any form of harassment, attack or excessive use of force, promptly investigate such acts and bring those responsible to justice, including the recent murder of journalist Victoria Marinova;**

(c) **Increase media pluralism and the diversity of views and information accessible to the public, taking into account the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression;**

(d) **Ensure that any form of public funding for the media and journalists is allocated in a transparent and non-discriminatory manner using objective criteria, and that no fines or other regulatory measures are imposed on the media other than in strict compliance with article 19 (3) of the Covenant, so that independent journalists and media can function without undue interference;**

(e) **Consider repealing all criminal provisions against defamation and ensure that they do not serve to stifle freedom of expression.**

Protection of children in institutions

39. While appreciating that a new juvenile justice bill is being prepared, the Committee regrets that children as young as 8 years of age continue to be deprived of their liberty in correctional and educational facilities, without the possibility of initial and periodic judicial review of the legality of the detention, and exposed to violence and disciplinary isolation. While noting that the number of children living in social care has decreased significantly, the Committee remains concerned that children, including those below the age of 3, continue to be separated from their families and placed in institutions or in smaller family-type placement centres. It is also concerned about the continuing reports of violence against children living in institutional care and, in particular, about the 292 deaths of children between the ages of 0 and 7 during the period 2010–2014, which have reportedly not been investigated (art. 24).

40. **The State party should intensify its efforts to:**

(a) **Promptly reform its juvenile justice legislation and practice, and ensure that children in conflict with the law are treated in a way that promotes their integration into society;**

(b) **Accelerate the deinstitutionalization process for children, promote parental care to avoid the institutionalization of children in the first place and prioritize the placement of children in family-based settings instead of institutional care, especially those under 3 years of age;**

(c) **Ensure that the placement of children in institutions for child protection or correctional and educational facilities is a measure of last resort and for the shortest possible duration, and establish guarantees for the regular review of such measures;**

(d) **Regularly monitor the conditions and the treatment of children in institutional care, facilitate access to complaint mechanisms and ensure that full and effective investigations into allegations of ill-treatment of children or deaths are carried out and that the perpetrators are brought to justice.**

Corruption

41. The Committee welcomes the adoption in 2018 of the Anti-Corruption and Forfeiture of Assets Act, creating a single anti-corruption commission. It is, however, concerned about the fact that so far very few convictions for high-level corruption were confirmed by final court decisions, reportedly due to the insufficient prosecutorial capacity to handle complex cases in an effective manner, limited access to external expertise and lack of effective cooperation between the prosecution and investigation services. The Committee is equally concerned about the low percentage of public institutions that complied with the requirement to publish the conflict of interest declarations of their employees (arts. 2, 9, 14 and 25).

42. **The State party should increase its efforts to combat corruption, mainly by addressing the shortcomings in the investigation and prosecution of high-level corruption, while ensuring that its legal procedures are consistent with protections under articles 9 and 14 of the Covenant, increasing compliance with the legislation related to conflicts of interest and ensuring that whistle-blowers are guaranteed sufficient protection against prosecution for reporting corruption and other wrongdoings.**

Independence of the judiciary and administration of justice

43. While noting the constitutional amendments of 2015 reinforcing the independence of the Supreme Judicial Council (see para. 3 (b) above), the Committee remains concerned at the low proportion of judges elected by their peers and the high proportion of members elected by the National Assembly in the Council, which may lead to potential politicization

of its decisions. The Committee is also concerned that the election by the National Assembly of the members of the Inspectorate of the Council, which has disciplinary functions, creates a risk of political influence over this body. While noting the amendments of 2017 to the Judicial System Act, the Committee remains concerned by the weak accountability of the Prosecutor General, who (a) is essentially immune from criminal prosecution and irremovable by means of impeachment for other misconduct; (b) can request that the Council automatically suspend judges when they are suspected of committing an intentional indictable offence without an obligation to review the substance of the accusations or hearing the person affected; and (c) has coercive administrative powers outside of the criminal law. The Committee is also concerned about the uneven workload among the courts and the public's lack of trust in the judiciary (art. 14).

44. **The State party should continue to review the legislative framework and take measures to further guarantee and protect the full independence and impartiality of the judiciary by, inter alia, ensuring that judges operate without pressure and interference from the executive branch and raising awareness about the importance of the independence of the judiciary. In this regard, the State party should (a) increase the proportion of judges elected by their peers within the Supreme Judicial Council; (b) reinforce the political detachment of the Inspectorate and enhance the role of the Council in disciplinary proceedings; (c) strengthen the accountability structure of the Prosecutor General in cases of misconduct and circumscribe the powers of the prosecution service in the non-criminal sphere; and (d) place sufficient resources at the disposal of the judicial system, particularly for overburdened courts.**

D. Dissemination and follow-up

45. **The State party should widely disseminate the Covenant and its two Optional Protocols, its fourth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public, including members of minority communities. The State party should ensure that the report and the present concluding observations are translated into the official language of the State party.**

46. **In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, by 2 November 2020, information on the implementation of the recommendations made by the Committee in paragraphs 10 (hate speech and hate crimes), 36 (national, ethnic and religious minorities) and 38 (freedom of expression) above.**

47. **The Committee requests that the State party submit its next periodic report by 2 November 2023. Given that the State party has accepted the simplified reporting procedure, the Committee will transmit to it a list of issues prior to the submission of the report in due course. The State party's replies to that list will constitute its fifth periodic report. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.**